
Introduced by Senator Ortiz

February 22, 2005

An act to amend Section 415.50 of the Code of Civil Procedure, relating to service by publication.

LEGISLATIVE COUNSEL'S DIGEST

SB 815, as introduced, Ortiz. Civil procedure: service by publication.

Existing law provides for the service of a summons by publication under specified circumstances.

This bill would make a technical, nonsubstantive change in that provision.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 415.50 of the Code of Civil Procedure is
2 amended to read:
3 415.50. (a) A summons may be served by publication if upon
4 affidavit it appears to the satisfaction of the court in which the
5 action is pending that the party to be served cannot with
6 reasonable diligence be served in another manner specified in
7 this article and that either:
8 (1) A cause of action exists against the party upon whom
9 service is to be made or he or she is a necessary or proper party
10 to the action.
11 (2) The party to be served has or claims an interest in real or
12 personal property in this state that is subject to the jurisdiction of

1 the court or the relief demanded in the action consists wholly or
2 in part in excluding the party from any interest in the property.

3 (b) The court shall order the summons to be published in a
4 named newspaper, published in this state, that is most likely to
5 give actual notice to the party to be served. If the party to be
6 served resides or is located out of this state, the court may also
7 order the summons to be published in a named newspaper
8 outside this state that is most likely to give actual notice to that
9 party. The order shall direct that a copy of the summons, the
10 complaint, and the order for publication be forthwith mailed to
11 the party if his or her address is ascertained before expiration of
12 the time prescribed for publication of the summons. Except as
13 otherwise provided by statute, the publication shall be made as
14 provided by Section 6064 of the Government Code unless the
15 court, in its discretion, orders publication for a longer period.

16 (c) Service of a summons ~~in this manner~~ *by publication* is
17 deemed complete as provided in Section 6064 of the Government
18 Code.

19 (d) Notwithstanding an order for publication of the summons,
20 a summons may be served in another manner authorized by this
21 chapter, in which event the service shall supersede any published
22 summons.

23 (e) As a condition of establishing that the party to be served
24 cannot with reasonable diligence be served in another manner
25 specified in this article, the court may not require that a search be
26 conducted of public databases where access by a registered
27 process server to residential addresses is prohibited by law or by
28 published policy of the agency providing the database, including,
29 but not limited to, voter registration rolls and records of the
30 Department of Motor Vehicles.